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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUHIRO UEKI

Appeal 2009-003191
Application 10/714,864
Technology Center 2600

Before THOMAS S. HAHN, CARL W. WHITEHEAD, JR.,
and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

HAHN, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellant invokes our review under 35 U.S.C. § 134(a) from the final rejection of claims 1-3. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

STATEMENT OF THE CASE

Appellant claims methods for recording and reproducing information from a recording medium that includes a plurality of recording layers. Reproduced signals are stored in a buffer memory (Abstract). Illustrative Claim 1, with disputed recitations emphasized, is reproduced:

- 1 A method of reproducing information from a recording medium having first and second places on which first and second information signals are recorded respectively, the recording medium including at least first and second signal recording layers accessible from one side, the method comprising the steps of:
 - rotating the recording medium;
 - enabling a head to reproduce the first and second information signals from the first and second places in the recording medium on a time sharing basis to get first and second reproduced signals respectively;
 - temporarily storing the first and second reproduced signals in a buffer memory;
 - outputting the first and second reproduced signals from the buffer memory at first and second transfer rates respectively;
 - transmitting the first and second reproduced signals from the head to the buffer memory on a time sharing basis and at a third transfer rate higher than the first and second transfer rates; and
 - deciding at least one of (1) an information amount of the first reproduced signal continuously transmitted from the head to the buffer memory and (2) an information amount of the second reproduced signal continuously transmitted from the head to the buffer memory on the basis of a given relation among parameters including (a) a time interval taken by the head to move from the first place to the second place as viewed on one of the first and second*

signal recording layers, (b) a time interval taken by the head to move from the second place to the first place as viewed on one of the first and second signal recording layers, (c) a time interval taken by the head to move its focus from the first signal recording layer to the second signal recording layer, (d) a time interval taken by the head to move its focus from the second signal recording layer to the first signal recording layer, (e) the first transfer rate, (f) the second transfer rate, and (g) the third transfer rate.

APPELLANT'S CONTENTIONS

Appellant contends that the Examiner erred in rejecting claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ueki, U.S. Patent 6,285,632 B1, and Florczak, U.S. Patent 5,640,382, because:

(A) Neither Ueki nor Florczak discloses, or suggests, the taking into account of the time intervals required by the pickup head to focus jump among the layers of a multilayer disc in order to determine the amount of information that could be continuously transmitted from the head to a buffer memory.

(Br. 16.)

(B) All of the rejected claims, which are independent method claims, recite limitations for determining the amount of information that can be continuously transmitted from a pickup head to a buffer memory by using multiple time intervals including the time intervals required by the head to refocus between layers of a multilayer disc (Br. 17).

ISSUE

Did the Examiner err in rejecting claims 1-3 by interpreting them as not reciting limitations for determining the amount of information that can be continuously transmitted from a pickup head to a buffer memory by requiring use of multiple time intervals including time intervals needed by the head to refocus between layers of a multilayer disc?

PRINCIPLES OF LAW

The scope of claimed limitations is determined by giving the terms in claims their ordinary and accustomed meaning while interpreting the claims as broadly as is reasonable and consistent with the specification. *See In re Thrift*, 298 F.3d 1357, 1364 (Fed. Cir. 2002).

ANALYSIS

The Examiner does not dispute Appellant's first contention (A) above, and we agree with Appellant as to this contention.

The Examiner disputes Appellant's contention (B) above by finding and reasoning that claim 1 recites,

"a given relation among parameters . . . " and then lists parameters a-g [including c and d that are head refocus time intervals]. The broadest reasonable interpretation of the limitation "a given relation among parameters" means a relationship between at least two parameters must be shown. The word among makes it the examiner[']s discretion as to which parameters to choose, they are all not required by the claim language. The examiner has shown a relationship among parameters a, b, e, f, and g; therefore, meeting the claim language.

(Ans. 5.) The disputed limitation is recited as “deciding . . . an information amount . . . on the basis of a given relation among parameters including (a) [through] . . . (g)” Parameters a-d are different time intervals Appellant characterizes as inter-layer and intra-layer time intervals (Br. 14), and parameters e-g are different transfer rates. Appellant contends that this disputed limitation “requires a determination of both the intra-layer time interval as well as the inter-layer time interval, in addition to the transfer rates, for determining the amount of information being reproduced from the recording medium by the first and second signals in the two signal playback mode” (Br. 14).

We agree with Appellant because, based on the record and using ordinary and accustomed meanings for recited terms, we find that the broadest reasonable interpretation of the limitation covers an inclusive use of the listed parameters. The Examiner has not articulated why, in accord with the ordinary and accustomed term meanings, the limitation under any reasonable interpretation could cover an unspecified alternative use of less than all of the listed parameters.

Therefore, Appellant has established that the Examiner erred with respect to the rejection of claims 1-3.

CONCLUSION

Appellant established that the Examiner erred in rejecting claims 1-3 as being obvious under 35 U.S.C. § 103(a) by interpreting them as not reciting limitations for determining the amount of information that can be continuously transmitted from a pickup head to a buffer memory by

requiring use of multiple time intervals including time intervals needed by the head to refocus between layers of a multilayer disc.

DECISION

The Examiner's decision rejecting claims 1-3 is reversed.

REVERSED

babc

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